



STATE BOARD OF EQUALIZATION

April 15, 1960

Gentlemen:

This is in reply to your letter of March 23, in which you explain that you buy dry ice for the purpose of keeping aluminum parts cold while the parts are being shipped to your customer after they have been heat-treated by you. You charged one-half to three-quarters of a cent per pound "handling and waste charge" and your customer discards the dry ice upon receipt.

Apparently our auditor regarded as taxable the charge made by you on account of the ice and gave you credit for the amount of tax reimbursement which you paid to your vendors of the dry ice. Since then, you have been attempting to pass on to your customer as a separate item the amount of the tax.

Although the particular objections which you state your customers have raised are, in our opinion, without merit, we nevertheless believe that you are properly regarded as the consumer of the ice and that you may, accordingly, buy the ice on a tax-paid basis as you have been doing, apparently without any complaint from your customers. By purchasing the ice in this manner you will have no further liability for sales or use tax with respect thereto, and the charge made on account of the ice need not be included in the measure of the tax declared and paid on your returns. It is, of course, not necessary for you to make a separate charge to your customers in the amount of tax which you pay to your vendors of the ice. We are so informing our Los Angeles audit staff.

Very truly yours,

E.H. Stetson
Tax Counsel

EHS:tl

cc: Los Angeles – Auditing: In your recent audit of this firm you picked up as sales of dry ice omitted \$6,773.